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## Emergency Legislation Germany.

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### I.

It is the purpose of these articles to present a summary of the legislation of the German Empire enacted since the 31st of July, 1914, in so far as it relates to private rights, and with special reference to measures affecting British interests. Over one hundred laws and proclamations have been published within the past three months, and it is needless to say that only the most important can be considered.

Under a Proclamation of the 2nd of August, 1914, the Reichstag was convened for the 4th of August, and most of the Legislation dealt with was enacted on that date or under the sweeping emergency powers conferred by laws of that date.

Of the legislation dealt with in these articles not based on the laws of the 4th of August, 1914, or subsequent dates, there must be mentioned the Prize Ordinance of the 30th of September, 1909, and the Prize Procedure Ordinance of the 15th of April, 1911, both first published on the 3rd of August, 1914, and deriving their force from a law of the 3rd of May, 1884.

*Declaration of Martial Law.*—On the 31st of July, by virtue of the power conferred by article 68 of the German Constitution, the Emperor declared the existence of a State of War (*Kriegszustand*), i.e. martial law, throughout the territory of the Empire, with the exception of Bavaria.\* At the same time the King of Bavaria declared martial law throughout the territories subject to his jurisdiction. The legal effects of the declaration of martial law are determined by the Prussian law of the 4th of June, 1851. The principal effect is the assumption of control by the military authorities over all the executive organs of government and a limited legislative power, in so far as the latter is in the interest of public security; the ordinary Courts are not superseded; the regular terms of Court began on the 15th of September.

*General Legal Status of Alien Enemies.*—The German law does not place alien enemies, as such, so far as regards their civil relations, under special disabilities. The law accords them a *locus standi in judicio* both as plaintiffs or defendants, in the ordinary courts as well as in the prize courts, and this regardless of their place of domicile or residence. Where alien enemies are non-resident they are subject to special provisions relating to security for costs.

It is important to note that under German law no appearance may be entered without a written Power of Attorney. A Power of Attorney need not be given for each individual case, but may be general in its nature. During the past weeks a number of

\* Reichsgesetzblatt (hereafter cited : R.G.L.), 1914, p. 293.

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judgments by default have been rendered against alien enemy defendants cited by substituted service, who failed to be represented in Court, and execution has been levied on property within the jurisdiction. A judgment by default may be re-opened within a limited time from the date of its delivery, such time being dependent upon the circumstances of the individual case.

While not required, it is advisable especially under the present circumstances, to have such instruments acknowledged before the American Consular Authorities as representing the German Government. Owing to the fact that a large number of the members of the German bar are in military service, it is advisable to give full power of substitution.

*Contracts with and Payments to Alien Enemies.*—Contracts with alien enemies, whether resident or non resident, are valid\*, but under the Ordinance of the 30th of September, 1914†, it is prohibited, subject to certain exceptions, to make any payments, or to transmit any securities, to persons domiciled or resident within Great Britain or the British Colonies or Possessions.

At the beginning of the war a number of employers discharged British employees, without observing the terms of the contract of employment relating to notice. The Commercial Courts before whom these cases were heard, decided that neither the existence of a state of war, nor the fact that the employee was the subject of an enemy State, justified a dismissal not in conformity with the contract of service. It is to be noted that numerous contracts, especially the standard theatrical, variety and circus contracts, provide that the employer shall have the right to terminate the same in case of political disturbances, riots, war, etc., and in such cases no question can arise.

*General Laws.*—Treaties of commerce with the enemy States are, of course, terminated by the war,‡ and, *semble*, the international agreements in regard to patents, trade-marks, copy right, &c., are, as between the belligerents, either suspended or abrogated.§ By proclamation of the 10th of August, 1914, || the Act of the 13th of December, 1913, relating to commerce with Great Britain, is repealed.

Mention should also be made of the several Acts and proclamations making paper currency legal tender, and exempting the Reichsbank from the duty of redeeming paper currency in gold. A measure¶ of a sweeping character is that which declares all provisions in contracts made prior to the 31st of July, 1914, stipulating for payment in gold, temporarily inoperative.

One of the most important pieces of legislation is that contained in one of the laws enacted on the 4th of August,\*\* empowering the Federal Council during the existence of the war to enact such ordinances as they may deem necessary to safeguard the economic interests of the Empire. Such ordinances must be laid before the Reichstag at its next session, and are to be abrogated upon demand of the Reichstag.



*Patents and Trademarks.*—The Patent Office upon application†† is empowered to grant to the owner of a patent, who by reason of the war is placed in a position of not being able to pay the annual fees, an extension not exceeding nine months, beginning with the date when payable, and without penalties (section 1). Furthermore, where it be shewn that by reason of the state of war a person has been prevented from complying in due time with any regulation or term prescribed by the Patent Office, a *restitutio in integrum* may be ordered, provided that application be made within two months from the date when the act should have been done (section 2). These provisions operate in favour of subjects of a foreign State only if similar concessions are granted to subjects of the German Empire by the foreign State, and if such reciprocity has been recognised by notification in the German Official Gazette.

*Supervision of Enemy Business Undertakings.*—Under the powers

\* This statement is made in the light of the law as it existed on the 15th of October, 1914, the date of the last German Official Gazette received by the writers of this Article. It would appear to be to the economic advantage of Germany, to keep her foreign trade open—even trade with the enemy.

† R.G.Bl., 1914, p. 421. This Ordinance will be dealt with fully in a subsequent Article.

‡ Cf. Proclamation of the 10th of August, 1914. R.G.Bl., 1914, p. 367.

§ Cf. Liszt, *Volkerrecht* (9th Ed.) 171 Osterrieth, *Der Krieg und die internationalen Verträge*, in *Deutsche Juristen Zeitung*, Vol. XIX., pp. 1072 *et seq.*

|| R.G.Bl. 1914, p. 367.

¶ Proclamation of the 25th of September, 1914. R.G.Bl., 1914, p. 417. Effective immediately.

\*\* R.G.Bl., 1914, p. 377.

†† Proclamation of the 10th of September, 1914, R.G.Bl., 1914, p. 423.

conferred by the law of the 4th of August relating to economic measures the Federal Council passed an Ordinance under date of the 4th of September, 1914\*, relating to the supervision of foreign business undertakings. Prior to this date no control was exercised. This Ordinance empowers the administrative authorities (*Landeszentralbehörden*), with the consent of the Imperial Chancellor, and by way of retaliation, to place certain undertakings under control. The measure was enacted by way of retaliation for the control imposed by Great Britain over the German banking and other institutions.

The power of supervision extends to business undertakings, or branches thereof, located within the territorial limits of the state, which are either directed or controlled by persons within the enemy state, or the income of which is to be transmitted in whole or in part to persons within such enemy territory (section 1). It is immaterial whether the undertaking is legally a branch of the foreign undertaking or a German company (*Aktiengesellschaft*), or society with limited liability (*Gesellschaft mit beschränkter Haftung*), and therefore a separate entity.†



Under the provisions of this Ordinance control was assumed over the branches of English banks operating in Hamburg. The supervision may be exercised over German companies, societies with limited liability, partnerships, or other undertakings, where all or a part of the directors or other persons exercising control are resident within enemy territory, or where the same are financed from such country. The latter would be the case where all or a part of the shares or other interests are owned by persons resident in enemy territory. It is to be noted that the test is residence in enemy territory, and not allegiance. Local business undertakings of alien enemies resident within the German Empire are not *per se* subject to the Ordinance.

The question whether an undertaking is subject to supervision is determined in proceedings before the administrative tribunals of the state where the undertaking is carried on. The Ordinance does not provide for the method of procedure in cases where the undertaking is carried on in several states.

The Ordinance is applicable to enemy insurance companies or societies, but the supervision is exercised through the Board of Control of Private Insurance (Aufsichtsamt fuer Privatversicherung), upon demand of the Imperial Chancellor.

The supervision is exercised by a supervisor or supervisors appointed by the Government, and at the charge of the undertaking. The Ordinance provides that such supervisors shall see to it, that during the war the business is not carried on in a manner detrimental to German interests. The property and other private rights of the undertaking are not to be impaired (section 1). Consequently a winding-up cannot be ordered by the supervisor, nor the business conducted on behalf of the State, nor the manager superseded in his control over the details of the business. The supervisor may control transactions, especially those disposing of property, and the transmission of communications. He may inspect the papers, audit the accounts, make inventories, and demand information regarding all transactions (section 2). The manager and employees must conform to the regulations and directions of the supervisor (section 3).

Moneys and other property of an undertaking placed under supervision cannot in general be sent mediately or immediately to the enemy country, but the supervisor may permit of exceptions in appropriate cases. He may also direct that such moneys or property be deposited at the Reichsbank to the credit of the undertaking (section 4). An intentional breach of the prohibitions contained in sections 3 and 4, as above, is punishable by a fine not exceeding marks 50,000, or imprisonment not exceeding three years, or by both such fine and imprisonment. The attempt is also punishable (section 5.) It is to be noted that, so far as relates to Great Britain, her Colonies, or Possessions, the direct or indirect transmission of funds or securities (Wertpapiere) may involve a breach of the Proclamation of the 30th September, 1914, with similar penalties.

(To be continued.)

\* R.G.B., 1914, p. 307.

† Waldecker, Die Ueberwachung auslaendischer Unternehmungen, in Deutsche Juristen-Zeitung, Vol. XIX., Nos. 19-20.



## II.

*Prohibition of Payments to Great Britain.*—It has been pointed out that the German law does not prohibit contracts with alien enemies.

The Federal Council by Ordinance of 30th September, 1914<sup>†</sup>, has prohibited payments to persons domiciled or resident in Great Britain or Ireland, or in the British Colonies or possessions, whether in cash, bills of exchange, cheques, assignments or otherwise, and the transmission of funds or securities to such persons. Obligations, whether now due or hereafter becoming due, to natural or juristic persons, domiciled or resident in the territories mentioned, are regarded as suspended from 31st July, 1914, or from such subsequent date as they may mature. During the period of suspension no interest can be demanded, and any legal consequences resulting from non-performance that may have occurred between 31st July 1914, and 30th September, 1914, are not regarded as having taken place.

The Ordinance affects also the assignee of the obligation, unless the assignment was made before 31st July, 1914, or, if the assignee has his domicile or residence within the German Empire, was made before the Ordinance came into effect. A person who has paid on behalf of another, and is entitled to reimbursement on this ground, is in the same position as an assignee (section 2).

\* It appears to us that this should have been "and."

† R.G.Bl. 1914, p. 421. Effective immediately. The Ordinance is in force as of 30th September, with the exception of section 6, relating to the penalties. Section 6 came into force on 5th October.

The debtor may deposit the amount involved, or the securities, to the credit of the person entitled at the Reichsbank (section 3), and thus free himself at once in respect of the obligation.

It is to be noted that the Ordinance takes as the point of departure, not the date of the declaration of war with Great Britain, but the date of the declaration of martial law. The prohibition of payment extends only to moneys and securities, while the suspension relates to all obligations. Interest runs to 31st July, 1914, or to the date of the maturity of the obligation, if this is a subsequent date. As the Ordinance is retroactive, it removes penalties incurred on or after 31st July, due to non-fulfilment of some term of the contract, and thus legalizes the action of debtors who failed to comply with their obligations after 31st July.

When the time for presentment for payment, or protest for non-payment, of a bill of exchange has not expired on 30th September, the time of presentment and protest is extended during the time the Ordinance is in force, and thereafter according to notification to be made by the Imperial Chancellor. These provisions apply to cheques. Additional stamp duties are not imposed (section 4).

The above provisions do not apply to obligations performable within Germany and in favour of local branches (*Niederlassungen*) (section 5), and, *a fortiori*, not to companies or societies organized under German law. Thus, payments to the German branches of British banks are not suspended. Payments to agents are, however, on a different footing. But section 2 applies to actions brought by a German branch against local persons for non-acceptance or non-payment of a bill of exchange payable in a foreign country (section 5).



The penalty for a violation of the Ordinance is a fine not exceeding 50,000 marks, or imprisonment for three years, or both such fine and imprisonment. The attempt is punishable.

The Ordinance also fixes the same penalty for the export, directly or indirectly, from Germany or from any other country, of goods to British territory, provided the exportation is prohibited under the general laws or proclamations relating to exports (section 6). Other trade remains legal. The Ordinance may be extended to other countries at war with Germany, and, *subh.*, has now been extended to France and her possessions.

*Produce Exchange Transactions.*—By a law of 4th August, 1914,\* the Federal Council was authorized to enact Ordinances in respect of the terms of settlement of Exchange time transactions relating to merchandise, entered into prior to 1st August, 1914, and stipulating for performance after 4th August, 1914 (section 1). The settling price is determined by the administrative authorities (Landeszentralbehörde) of the State in which the Exchange is situated. In fixing the settling price the Board of Directors of the Exchange is to be heard, and regard is to be had to the conditions of the market prior to 1st August, 1914 (section 2). The difference in price is to be paid to the party entitled to damages (section 3).

In conformity with this Law, the Federal Council issued an Ordinance under date of 24th August, 1914,† fixing the settling days for Exchange time transactions regarding copper, tin, sugar, cotton, coffee, and rubber, as follows:—(1) For copper and tin, where delivery was to take place (a) in August, 1914—on 1st September; (b) in September, 1914—on 30th September; (c) in October, 1914—on 31st October; (d) after October, 1914—on 30th November. In the last-named case interest at the rate of six per cent. per annum, calculated to the last day of the month in which delivery was to take place, is deducted. (2) For sugar, where delivery was to take place (a) in August or September, 1914—on 1st September; (b) in October, 1914—on 1st October; (c) in November, 1914—on 1st November; (d) after November, 1914—on 15th November, with the same provision as to deduction of interest. (3) For coffee and rubber, on the first day of the month in which delivery was to take place. (4) For cotton, flour and grain, on 15th September, 1914. Where delivery was to be made after 30th September, 1914, interest at the rate of

\* R.G.BL., 1914, p. 325. The Act applies only to merchandise admitted under section 50 of the Exchange Law of 25th May, 1908, and to transactions entered into under section 67 thereof.

† R.G.BL., 1914, p. 321



5 per cent. per annum from 15th September, 1914, to the first day of the month in which delivery was to take place is to be deducted.

*General Moratory Legislation.*—The German Empire has passed no law declaring a general moratorium. Nevertheless, there has been a considerable mass of legislation which, in its practical effect, amounts to a moratorium.

By an Ordinance of 7th August, 1914,\* it is provided that no suit can be instituted before 31st October in respect of a claim due to a natural or juristic person domiciled in a foreign country. The Imperial Chancellor is empowered to grant exceptions, and may, by way of retaliation, make these provisions applicable to any class of aliens regardless of residence. The Ordinance does not apply to domestic branches of foreign firms. The assignee acquiring title after 31st July is in the same legal position as his assignor would have been. Pending actions are continued to the date named.

By an Ordinance of the same date,† the ordinary courts (as distinguished from commercial courts) are empowered, in cases where the position of the debtor justifies such action, and the creditor is not unreasonably prejudiced thereby, to grant a stay of execution not exceeding three months, in respect of the whole or a part of a judgment, provided that the obligation upon which it was based arose prior to 31st July, 1914. The Ordinance refers only to claims for money (section 1), but it appears that it may also be extended to other cases. Interest continues to run during the stay.

This Ordinance is supplemented by one of 18th August, 1914,‡ providing that the court may, on the application of the defendant, enter a decree to the effect that the legal consequences resulting from non-performance of certain acts (*e.g.* maturing of principal by reason of non-payment of interest) shall be deemed not to have ensued, and may grant a delay not exceeding three months in respect thereto.

Finally, under an Ordinance of 8th August, 1914,§ where a bankruptcy petition is filed, and where the inability to pay is due to the war, the court may order a carrying on of the business under supervision, in lieu of bankruptcy. The provisions of the code of commerce relating to the duty of directors to wind up joint stock companies, joint stock partnerships and associations with limited liability, in cases where liabilities exceed assets, are also suspended.||

### III.

*Moratorium affecting Bills of Exchange.*—Important measures, relating to bills of exchange, have been enacted. One of the most important of these is the Act of 4th August, 1914,\* which provides, *inter alia*, that whenever, by reason of warlike circumstances, the punctual performance of an act required to be done in order to preserve a right of action or of recourse, in respect of a bill of exchange or cheque, is prevented by *vis major* (*hoehere Gewalt*) the time is extended until such disability is removed, and in all cases until the elapsing of two weeks† after the disability ceases. Such *vis major* exists where the place, where the act is to be performed, is in the possession of the enemy (except in cases where by exercise of ordinary diligence the act may none the less be performed); and also where the usual postal connections are interrupted to such extent that a regular postal service no longer exists (section 1). The provisions apply where the act required to be done is prevented by some rule of law in force in a foreign country‡ or, a moratorium. By Ordinance, the entire Empire or certain parts, or the Colonies thereof, may be declared to be in this condition (section 2), and from time to time special Proclamations in respect of certain portions of the Empire have been issued.



The time for doing the acts necessary to procure a right of action against a party to a bill of exchange or cheque, where his had not elapsed on 31st July, 1914, was extended thirty days.

Bills drawn in a foreign country prior to 31st July, 1914, and payable within the German Empire after the said date are extended three months. No new stamp duties are payable. From the original maturity of the bill to the time when due under the moratorium, interest at the rate of 6 per cent. per annum is added\*\*.

By Proclamation of 29th August, 1914,†† an additional delay of thirty days was granted in respect of bills of exchange or cheques payable in Alsace-Lorraine the Province of East Prussia, and in the following districts of the Province of West Prussia: Marienburg, Elbing, Stuhm, Marienwerder, Rosenberg, Graudenz, Loebau, Culm, Briesen, Strassburg and Thorn. This period was extended a further thirty days by Proclamation of 14th September, 1914.‡‡ These provisions apply to bills of exchange payable in Dantzig, which state the domicile of the drawer to be in East Prussia or in one of the districts of West Prussia named in the Proclamation of 29th August, 1914.§§

Under date of 27th August, 1914, twelve of the principal banks of Germany issued a circular letter stating that inasmuch

\* R.G.Bl., 1914, p. 327.

† As amended by Proclamation of 29th August, 1914.

‡ Proclamation of the 7th August, 1914, R.G.Bl., 1914, p. 361.

§ Proclamation of the 6th August, 1914, R.G.Bl., 1914, p. 357.

|| Proclamation of the 10th August, 1914, R.G.Bl., 1914, p. 368.

\*\* Proclamation of the 12th August, 1914, R.G.Bl., 1914, p. 369.

†† R.G.Bl., 1914, p. 357.

‡‡ R.G.Bl., 1914, p. 413.

§§ R.G.Bl., 1914, p. 393.

as the English and French banks had refused to discount or collect bills on England and France bearing any German indorsement, the signatory German banks would refuse to pay, discount, or collect foreign bills bearing any indorsement made in any enemy state, unless the holder consents to deposit at such bank the amount due him in a separate account, such account not to be dealt with until after the war, and to bear four per cent. interest annually. The refusal extends to acceptances of the banks themselves.

*Special Privileges of Persons in Active Service.*—The foregoing Acts and Ordinances are general in their application, and, subject to the exceptions indicated, apply to aliens, both neutrals and enemies. In addition to these, an Act was passed on 4th August, 1914,\* conferring special rights on persons in active military or naval service. This Act is of special importance, and, in view of the fact of universal military service, of far-reaching application. It is based on a similar Act (21st June, 1870) passed at the beginning of the Franco-German War.

The Act provides that proceedings already instituted or thereafter instituted in the civil, commercial and industrial courts, shall be suspended where one of the parties by reason of his service, office, or profession belongs to the mobilized forces, or to the armed or naval forces used against the enemy, or to the garrison of a fortification, or is absent from the country on business connected with the prosecution of the war, or is in the power of the enemy as a prisoner of war, or as a hostage (section 2).† The same protection is accorded to all natural persons, as distinguished from companies, not themselves capable of suing or being sued (minors,‡ wards, insane) who are legally represented by persons belonging to the exempted classes, but in these cases the court may appoint a special representative (section 9).



No suspension is to take place where a personal arrest of the debtor has been ordered in favour of one of the parties named in section 2, or where the party is represented in court under a power of attorney or by a legal representative (section 3). But a representative or attorney of a privileged person may move a suspension of the action.

The suspension terminates with the termination of the state of war, or at the instance of the privileged party, or, at the instance of the adverse party, one month after the termination of the facts creating the privilege (section 4).

Execution may not issue against the movable<sup>§</sup> or immovable property of a person belonging to the privileged class, nor against the marital property rights of a husband, nor the property rights of a parent belonging to such class (section 5). A voluntary petition in bankruptcy may be filed by a person entitled to privilege; but involuntary petitions may not be filed, and pending ones may be stayed by the court until the end of the state of war, or until such prior date as the court may determine (section 6).

Where a privileged person is a creditor in a pending bankruptcy, or is an execution creditor, or is a party to partition proceedings, the proceedings are not affected, but certain rights of re-opening the proceedings are reserved in his favour (section 7.)

Limitation does not run during the periods (section 8). The Act ceases to be operative at the end of the state of war. The exact date is determined by Proclamation (section 11), and need not be the same as the date of demobilization or of the conclusion of peace (section 12).

In the next article we shall state the German Prize Law

*(To be concluded.)*

\* R.G.Bl., 1914, p. 328.

† Not all persons in the service are necessarily within the exemption, e.g., persons merely engaged in garrison or military police duties. The exemption may exist in favour of females (e.g. nurses) and aliens (e.g. an alien serving in the army or engaged in the purchase of army supplies in a foreign country).

‡ In certain cases minor children would be represented by the mother (Civil Code, section 1655) and no disability would exist. Exceptions may also arise under Civil Code, sections 112, 113. Cf. Stessund, *Prozessrechtlicher Schutz der Kriegszeit*.

§ Except money. This may be turned over to the execution creditor. Perishable articles are to be sold, and the proceeds deposited or paid to the creditor.

ROYAL EXCHANGE ASSURANCE.—At a court held on Wednesday, Edwyn Frederick Barclay, Esq., and Captain Sir H. Acton Blake, K.C.V.O., were appointed members of the Court of Directors.



*Sources.*—The German law of prize is based on the law of 3rd May, 1884, which confers the general ordinance power in respect of this subject. In conformity therewith there was enacted the Prize Ordinance of 30th September, 1909, consisting of 131 articles, together with some supplementary provisions under date of 22nd June, 1914. The proceedings are regulated by the Prize Courts Ordinance of 15th April, 1911, the Ordinance governing the beginning of prize jurisdiction of 3rd August, 1914, and certain supplementary regulations of the same date. All of these ordinances and regulations were first published in the *Reichsgesetzblatt* on 3rd August, 1914.\*

The rules of international law as such, the Declaration of London, and the decisions of prize courts are not binding on the German Prize Courts. In cases not covered by the express

\* R.G. Bl., 1914, pp. 275-321.

provisions of law, resort may be had to interpretation of the general principles underlying the ordinances. Where treaties are involved, resort must be had to their provisions.\*

*Capture.*—The validity of a seizure of a merchant vessel or cargo is determined by adjudication. The court may decree a forfeiture or a release, and in the latter case either with or without damages. A capture may not take place within neutral territorial waters, nor within waters within which warlike operations are prohibited.

Neutral ships under convoy are exempt from capture and search (section 5). The following are free from capture. (a) hospital ships (according to Hague Convention No. X.); (b) coast-fishing vessels and small vessels engaged in local trade; under the head of coast-fishing is included all fishing, except high sea fishing; (c) Vessels devoted to religious, scientific and philanthropic objects †; (d) cartel ships and vessels used for the exchange of prisoners of war; (e) enemy merchant ships which at the outbreak of hostilities were on their voyage from a German or allied port to their port of destination, and are in possession of a pass (section 6).

*Mail Steamers and Mails.*—Neutral mail steamers are subject to search, but are to be released with all possible despatch. All mail matter found on board neutral or enemy ships, and whether belonging to neutrals or enemies, and whether official or private, is inviolable, and is to be despatched as soon as possible. An exception is made in case of mail from or to a blockaded port (section 7).



*Enemy Character.*—The national character of a vessel is determined by the flag, regardless of the nationality or domicile of the owner (section 11). Vessels transferred from an enemy to a neutral flag after the outbreak of hostilities are liable to capture unless it appears that the transfer would have occurred even if war had not been declared (*e.g.*, inheritance). Such vessels are furthermore liable to capture if the transfer took place while the vessel was on a voyage or within a blockaded port, or where a right to repurchase is reserved or the conditions imposed by the laws of the state of the flag are not complied with (section 12).

If the transfer to a neutral flag took place within 30 days prior to the outbreak of hostilities, the ship is to be regarded as enemy property in the following cases: (*a*) Where the legal conditions necessary to a transfer have not been complied with; (*b*) where it appears that the transfer was made for the purpose of obtaining immunity; (*c*) where the documents of transfer are not on board the vessel, and their absence is not satisfactorily explained (section 13).

If the transfer to the neutral flag took place more than 30 days prior to the outbreak of hostilities, the ship is to be regarded as enemy property only in the case where the transfer was made within 60 days prior to the war, and where the transfer was conditional or incomplete or not in accordance with the law, or was merely made in trust so that the ship or its profits still belong to the transferor. It must further appear that the transfer was made for the purpose of escaping capture (section 14).

A neutral ship may be regarded as enemy property where it is engaged in a trade which up to within two months prior to the outbreak of the war it was not permitted to engage in. Neutral ships guilty of resistance may be treated as enemy property, but a simple attempt to escape is not to be regarded as a resistance (section 16).

The following cargo on board an enemy ship is liable to condemnation: (*a*) Enemy property; (*b*) in case the ship resists capture, the property of the captain and owner; (*c*) contraband; (*d*) in the case of a breach of blockade, all the cargo, except such part as belongs to neutral consignors who did not know of the intention to commit a breach of blockade (section 18). The presumption is that the cargo on board an enemy ship is the property of the enemy.

Enemy or neutral character is determined by the nationality of the owner. If the owner has no nationality, or has both a neutral and an enemy nationality, the national character of the

<sup>\*</sup> Heymann, Das Priisenrecht des deutschen Reichs, in Deutsche Juristen-Zeitung, Vol. XIX., pp. 1915 et seq.

<sup>†</sup> Not applicable to China, Montenegro and Russia.



...determined by the domicile of the owner of a company is determined by the national property on board an enemy vessel transferred to a neutral port after the outbreak of hostilities, as enemy property until its arrival at its destination, but neutral property becomes enemy property by a transfer of ownership during the voyage (section 20).

**Declaration of Prizes.**—Prizes must be brought with reasonable dispatch to a German port or to the port of an ally (section 111). Where this is impracticable or dangerous, an enemy prize ship may be destroyed (section 112). Neutral ships taken as prize for carrying contraband, breach of blockade, or rendering unnatural services may be destroyed where the facts are such as to warrant condemnation, and the bringing into port would be dangerous to the captor or hamper it in operations in which it is engaged. This will be assumed, *inter alia*, where the prize by reason of its condition or lack of supplies cannot be brought into port, or cannot follow the captor, and is therefore in danger of being recaptured, or where the proximity of the enemy renders recapture probable, or where the captor cannot spare the necessary prize crew (section 113). All ship's papers and other evidence which the interested parties deem of value are to be taken charge of by the commander of the captor vessel. All persons on board, together with their personal effects, are to be brought to a place of safety (section 116).

**Contraband.**—Sections 21-28 contain the list of absolute and conditional contraband and a list of articles which cannot be declared contraband. The articles mentioned in the several lists are substantially those set forth in the Declaration of London, but the German Empire expressly reserves the right to alter the lists of absolute and conditional contraband.

**Blockade.**—The sections relating to blockade substantially enact the provisions of the Declaration of London. The doctrine of continuous voyages does not apply to blockade, nor to conditional contraband, unless the country of its destination has no seaport (*e.g.*, Serbia). In this case goods destined for such country by way of a neutral port are liable to capture if they are conditional contraband. As regards absolute contraband, the doctrine of continuous voyages applies.

**Visit and Search.**—The formalities of visit, search, capture, prize crews and the like are in accordance with the ordinary usage. Under an Order of the Chief of Staff of the Admiralty, dated 22nd June, 1914, any resistance against visit, search, and capture by an armed merchant vessel is to be considered piracy.

**Procedure.**—Procedure is regulated by a Prize Procedure Ordinance of 15th April, 1911, and certain additional Ordinances.

Preliminary proceedings take place before a Prize Officer, and the adjudication before the Prize Court at Hamburg or Kiel. The Prize Court consists of five judges, of whom the President and one member must be of the legal profession: the remainder of the court is composed of a naval officer and two laymen representing respectively the shipping and commercial interests. The Government is represented by an Imperial Commissioner. The owners of the ship or cargo and other persons interested have the right to appear as claimants. All persons having any interest in the ship or cargo, regardless of whether they are neutrals or alien enemies, have the right to appear in the Prize Court and may be represented by an attorney.

If no claim is interposed the court proceeds to a determination of the case on the basis of the claim set forth in the documents submitted by the Commissioner.

An appeal lies from the Prize Courts to the Superior Prize Court in Berlin. This appellate court consists of seven judges, of whom three belong to the legal profession, one is a naval officer, one a Representative of the Ministry for Foreign Affairs, and two are lay judges. Proceedings in all the courts are public.

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WAR LOAN, 1925-1928.—On another page the issue is announced of £350,000,000 in stock or bonds, bearing interest at  $3\frac{1}{2}$  per cent. per annum, applications for which will be received by the Bank of England at the price of £95 per cent.



## FIRST SUPPLEMENT.

In the series of articles published *ante*, pp. 22, 39, 55, and 70, the emergency legislation of Germany was considered with reference to the law as in force on 15th October, 1914. During the period from 16th October, to 1st December, 1914, a number of new Ordinances have been enacted. Most of the legislation has been of an amendatory character. Of new measures the ordinance relating to enemy goods in charge of the Customs, and the law providing for the sequestration of the property of French citizens, are the most important.

*Supervision of Enemy Business Undertakings.\**—An Ordinance of 22nd October, 1914†, provides that where an enemy business undertaking or branch has been placed under supervision, and there is no manager or employee within the country authorized to act, or where the manager or employee fails to discharge his functions, a representative of the undertaking may be appointed by the court upon demand of the supervisor. This representative succeeds to all the rights and duties of the manager or other employee.

*Prohibition of Payments to France and Russia.*—The Ordinance of 30th September, 1914‡, has been extended in its application to France and her Colonies and Possessions by an Ordinance of 20th October, 1914,§ and to Russia and Finland by an Ordinance of 19th November, 1914.

*Moratory Legislation.\*\**—The Ordinance of 7th August, 1914, provided that no suit could be instituted before 31st October, 1914, in respect of a claim due to a natural or juristic person domiciled abroad. The period of payment has been extended to 31st January, 1915.†† The maturity of bills of exchange drawn in foreign countries, which by the Ordinance of 10th August, 1914, was extended for three months, has been extended for an additional period of three months. Interest at the rate of 6 per cent. per annum is to be paid.‡‡

The moratorium in respect of bills of exchange and cheques payable in Alsace-Lorraine, the Province of East Prussia, and in the following districts of the Province of West Prussia; Marienburg, Elbing, Stuhm, Marienwerder, Rosenberg, Graudenz, Loebau, Culm, Briesen, Strassburg and Thorn—which has been several times extended,§§ was extended for a period of thirty days by an Ordinance of 22nd October, 1914,|| and for a further period of thirty days by the Ordinance of 23rd November, 1914.\*\*\*

\* See 59 SOLICITORS' JOURNAL, 22.

† R.G.Bl., 1914, p. 417, effective immediately.

‡ 59 SOLICITORS' JOURNAL, 29.

§ R.O.Bl., 1914, p. 413, effective immediately.

|| E.G.Bl., 1914, p. 479, effective immediately.

\*\* 51 SOLICITORS' JOURNAL, pp. 49, 55.

†† Ordinance of 22nd October, 1914, R.G.Bl., 1914, p. 419.

‡‡ Ordinance of 22nd October, 1914, R.G.Bl., 1914, p. 418.

§§ 59 SOLICITORS' JOURNAL, p. 55.

|| R.G.Bl., 1914, p. 419.

\*\*\* R.G.Bl., 1914, p. 482.

The law of 4th August, 1914, which conferred special privileges on persons in active service, has now been extended to persons who are in the land or naval forces of Austria-Hungary\*.

*Prize Law.*—Lead (in ingots, plates and pipes), copper, lumber (whether unfinished or finished), wood, coal-tar, sulphur (whether raw or purified), and sulphuric acid are added to the list of conditional contraband.†



*Enemy Goods in Customs.*—By Ordinance of 15th October, 1914, it is provided that goods which on the date of the publication of the law are in the hands of the Customs authorities on account of a natural or juristic person, domiciled in France, Great Britain or Russia, or in the Colonies or possessions of any of these countries, shall be temporarily placed at the disposal of the Customs authorities. The Imperial Chancellor is empowered by way of reprisal to decree confiscation. In case of proceedings of condemnation the owner or his agent has the right to be heard. The Chancellor may extend the provisions of the Ordinance to enemy countries other than those named, and may grant exemptions from seizure.

*Dealings in Securities bearing English Revenue Stamps.*—By an Ordinance of 19th November, 1914, all contracts for the sale of obligations of the German Empire or of a constituent State of the Empire, or obligations guaranteed as to principal or interest by the Empire or one of the German States, and bearing an English revenue stamp, are prohibited, as are also all brokerage transactions in respect of such obligations. The Ordinance does not apply to obligations of the nature indicated above, where the obligations have been uninterruptedly since 31st July, 1914, within Germany. The Chancellor is empowered to extend the provisions of the Ordinance to other securities. The Ordinance furthermore forbids the delivery or acceptance of securities bearing an English revenue stamp in performance of a contract of sale. The penalty is imprisonment not exceeding one year and a fine of not exceeding Marks 5,000.

*Sequestration of Property of French Citizens.*—An Ordinance of 20th November, 1914,\*\* obviously enacted in retaliation for the French Decree of 27th September, 1914,†† provides that the administrative authorities (Landeszentralbehörden) may, with the consent of the Imperial Chancellor, place business undertakings owned entirely or principally by citizens of France under sequestration. The administrator appointed by the Government assumes complete control of the undertaking, and may in his discretion either continue the business, or merely carry it on for purpose of liquidation. Where the undertaking is a company or a partnership having its registered office within Germany, the administrator may, with the consent of the administrative authorities, and upon motion of a German shareholder or partner, proceed to a winding up. All powers of the partners, directors and shareholders in the undertaking are superseded during the period of sequestration. The costs of the administration are payable out of the funds of the business. Where, after liquidation, any balance remains, the amounts payable to French subjects are to be deposited at the Reichsbank. Where the person entitled to the payment lives within Germany the administrative authorities may permit the payment to him of such amounts as are necessary for his maintenance. The Chancellor may by way of retaliation extend the provisions of the Ordinance to citizens of other enemy States.

*Premiums on Gold.*—An Ordinance of 23rd November, 1914,‡‡ prohibits the purchase and sale of German gold coins at a price exceeding their nominal value. The penalty is imprisonment, not exceeding one year and a fine of not exceeding Marks 5,000.

Ordinance of 22nd October, 1914, R.G.Bl., 1914, p. 450.

Ordinance of 15th October, 1914, R.G.Bl., 1914, p. 441; Ordinance of 23rd November, 1914, R.G.Bl., 1914, p. 481.

R.G.Bl., 1914, p. 438.

R.G.Bl. 1914, p. 477. The provisions prohibiting the making of contracts of sale are effective immediately. The provisions prohibiting the delivery or acceptance of securities named are effective on 25th November, 1914.

The Ordinance uses the words "*Englische Stempel*." *Quære*, whether the Act extends to securities bearing other forms of British revenue stamps.

Deutscher Reichsanzeiger No. 280 (28th November, 1914).

Journal Officiel, 1914, p. 8669.

R.G.Bl., 1914, p. 487.



## Emergency Legislation of Germany.

CHARLES HENRY HUBERICH, of Berlin, Hamburg and The Hague, Counsellor-at-Law of the United States Supreme Court  
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### SECOND SUPPLEMENT.

The series of articles published *ante*, pp. 22, 39, 55, 70 and 121, the emergency legislation of Germany was considered with reference to the laws enacted up to 1st December, 1914. In the present supplement the legislative measures enacted during the period from 1st December, 1914, to 29th March, 1915, the date of the last prorogation of the Reichstag, are considered, together with some of the principal legal decisions interpretative of the emergency laws.

During this period the legislation has been directed chiefly towards the regulation of economic and social questions. The most significant feature in the entire legislation of the period now under review is the indication that the war has continued for an unexpected length of time. This is particularly observable in the measures of an economic character adopted during the past three months. But it is equally true of the commercial legislation. For example, the ordinances enacted in August relating to postponement of payments of foreign bills of exchange, and of debts due to persons domiciled outside the German Empire, fixed the date of expiration at 31st October, 1914. These acts were subsequently extended to 31st January, 1915, and now to 30th April, 1915.

Among the legislative measures of special interest may be mentioned those dealing with the sequestration of the property of British subjects, the transit of enemy goods, the prohibition against the publication of stock exchange quotations, and a measure relieving companies from the publication of balance sheets and the holding of the general meeting *et c.* Among the judicial decisions are to be noted certain ones dealing with the effect of war on The Hague Conventions of 14th November, 1896, and 17th July, 1905, and the Paris Convention of 20th March, 1883, and the decision of the Hamburg Prize Court in the case of *The Ulitra*.

*Effect of War on Treaties.*—An important decision relating to the effect of the declaration of war on international treaties was rendered by the Imperial Supreme Court on 26th October, 1914, in a case involving the question whether a citizen of France applying for a German patent was entitled, under Article 4 of the Paris Convention of 20th March, 1883, to a claim of priority based on his French patent. The court held that the applicant was entitled to claim priority. The grounds of the decision were that on Germany's accession to the Paris Convention on 1st May, 1913, the treaty became binding under Article 11 of the Constitution. The necessary ratification by the Federal Council and the approval of the Reichstag had been given on 9th and 15th May, 1901, respectively, and the accession had been notified in the Official Gazette on 9th April, 1903, and thereby the Convention became a part of the German municipal law, indepen-

(a) The Declaration of 9th February, 1915, is a military and not a legal measure. It is published in the *Reichsanzeiger*, but not in the *Reichsgesetzblatt*.

Apr 3. 1915



adequate security, and his insurance might "be regarded as valueless."

The *del credere* agent who entered into a contract on behalf of a Russian principal is primarily liable and can not postpone payment on the ground of the Russian moratorium existing in favour of his principal (*f*).

**Patents and Trade Marks.**—Notification has been made that the Proclamation of 10th September, 1914 (*g*), applies to Belgium, Austria, Hungary, Portugal (*h*) and Sweden (*i*).

**Prohibition of Payments to Enemy States.**—An important modification (*j*) has been made in the Ordinance of 30th September, 1914 (*k*), relating to prohibition of payment to Great Britain, which has been extended to payments to France and Russia. Article 1 of the original Ordinance prohibited generally all payments to Great Britain and the British Possessions. Article 5, however, permitted payments to local branches of enemy firms, in so far as the claim arose in connection with the local (inland) business of the firm. Doubts appear to have arisen as to what may be regarded as transactions of this character. Suppose the local branch of a British bank presents to a German firm a bill of exchange for acceptance or payment, and the bill is one drawn in a foreign country against shipments of goods, these bills have usually been discounted by a foreign (*e.g.*, Indian, South African) branch of the same institution and endorsed to the German branch. Or there exists a general agreement between the German firm and the foreign branch of the English bank, under which an agreement was originally entered into through the intermediary of the German branch of the English bank, that the foreign branch is to discount bills drawn on the German firm. The new Ordinance provides that the mere fact that the local branch in Germany of the British bank has extended the credit or acted as the intermediary in the making of the contract between the German firm and the foreign branch of the English bank, or is the indorser of the bill, or presents the same for payment or acceptance, is not sufficient to bring the German branch within the exception provided for in Article 5.

Or suppose that an agreement exists between a German firm and the principal office in London of a British bank to the effect that payments are to be covered in London, but that under certain circumstances, or as the result of custom, payments were to be or in fact usually were made, to the local German branch of the British bank, which local branch in fact acted as the intermediary in the making of the contract between the German firm and the London branch. Here, too, the exception provided for in Article 5 of the Ordinance of 30th September is not to apply, and the mere fact that the contract between the German firm and the London bank was entered into through the intermediary of the local German branch of the English firm, and that payments were usually made to it (the local German branch), does not make it an obligation payable to the German branch.

The Ordinance is of far-reaching importance in view of the quantity of bills held by German branches of English banks, and which bills have been discounted by the foreign branches of the same bank. Although bills drawn in foreign countries on Germany are subject to a moratorium which is now extended to nine months, nevertheless the new legislation not only extends the time of payment for the bills affected by it to the end of the war, but also prevents the running of interest (to which other extended bills are entitled) after 31st July, 1914.

It has been held that the Ordinance of 30th September, 1914, does not effect rights *in rem* existing in favour of alien enemies, and that consequently a pledgor is not entitled to demand a release of the pledge against an alien enemy (*l*).

The question of the effect of the Ordinance on an alien enemy's right to prove in bankruptcy was considered by the Hamburg Court (*m*). A Hull firm having a Hamburg office presented a

(*f*) Hamburg, 19th December, 1914.

(*g*) 59 SOLICITORS' JOURNAL, 22.

(*h*) Ordinance of 20th February, 1915, R.G. Bl., 1915, p. 167.

(*i*) Ordinance of 12th March, 1915, Deutscher Reichsanzeiger, 15th March, 1915.

(*j*) Ordinance of 22nd December, 1914, R.G. Bl., 1914, p. 542.

(*k*) 59 SOLICITORS' JOURNAL, 22, 126.

(*l*) Landgericht, Frankfurt, Juristische Wochenschrift, 1914, III.

(*m*) 28th January, 1915.



claim against a bankrupt debtor. The assignee refused to allow the claim on the ground that under the Ordinance of 30th September, 1914, payment could not be made. The court refused the claim stating that the mere fact that it was due to an English firm was not a ground for a refusal to recognise it. The claim was merely postponed and was legally in the position of a conditional obligation for which provision must be made by the assignee (n). Upon the facts the court also held that the Hamburg office was a branch and not an agency.

An Ordinance of 20th December, 1914 (o), provides that the existing prohibition of payments to Great Britain, France and Russia shall not apply to business undertakings there carried on, where the payment is made to a German subject who is the proprietor or a partner in such undertaking, and who has on account of the war left the enemy state.

The prohibition of payments to Russia does not apply to the territories of Russia under German civil administration (p).

[To be continued.]



# Emergency Legislation . . . . . many.

By CHARLES HENRY HUBERICH, of Berlin, Hamburg and The Hague, Counsellor-at-Law of the United States Supreme Court Bar; and RICHARD KING, of London, Solicitor of the Supreme Court, England.

## SECOND SUPPLEMENT.

*Sequestration of Enemy Property.*—The Ordinance of 26th November, 1914 (o), has been extended so as to apply to British (p) and Russian (q) business undertakings.

By Ordinance of 5th January, 1915 (r), persons who acquired interest in an enemy business undertaking between 26th November, 1914, and 5th January, 1915, are entitled to mediate the transaction within one month from the date of giving notice that the undertaking has been placed under sequestration.

The word "Undertaking". (*Unternehmung*) appears to have been given a most sweeping interpretation. It applies not alone to commercial undertakings, but also to movable and immovable property.

*Enemy Goods in Customs.*—The Ordinance of 15th October, 1914 (s), providing for the seizure by the Customs authorities of goods in customs belonging to subjects of certain enemy states has been derogated in respect of persons domiciled in Belgium (v). It is to be noted that the words of the law apply to the whole of Belgium, not alone to the occupied territories.

*Importation and Transit of Products of Enemy States.*—By Ordinance of 11th February, 1915 (w), the Imperial Chancellor was authorised to prohibit the importation or transit of products of the soil or industry of enemy states, and by Proclamation of 12th February, 1915 (x), the import and transit of certain products of Great Britain and France were prohibited, amongst others champignons, flowers, lobster, wine, sparkling wine, perfumery and cosmetics, silk goods, laces, silk dresses, women's hats, cigarette paper, films, photographic dry plates.

*Stock Exchange Quotations.*—An Ordinance of 25th February, 1915 (y), provides that in respect of securities admitted on German stock exchanges, and in respect of which an official price has not been fixed, no public notices or publications can be made in regard to the price of such securities, nor statements showing the prices at which such securities have changed hands in recent times. This also applies to foreign coins and notes, as well as to bills, cheques and payments to foreign countries. It does not, however, apply to publications of prices prevailing in foreign stock exchanges (z).

*Reports of Companies.*—By an Ordinance of 11th February, 1915 (aa), the Imperial Chancellor was empowered to exempt public companies and *Gesellschaften mit beschränkter Haftung* organised during the war from publishing the ordinary notices in respect of organisations.

Public companies, *Kommandit-Gesellschaften auf Aktien*, and *Gesellschaften mit beschränkter Haftung*, whose property is situated entirely, or to a considerable extent, in foreign countries, or whose principal business is with foreign countries, may on application to the administrative authorities (*Landes-Zentral-Behörden*) be exempted from holding meetings of shareholders and the submission and publication of the annual reports and balance sheets. Certain of the large shipping companies have availed themselves of the privileges of this Ordinance (bb).

*Moratory Legislation.*—The Ordinance of 7th August, 1914 (c), providing that no suit could be instituted before 31st October, 1914, in respect of a claim due to a natural or juristic person domiciled abroad, and under which the period of payment was

(o) 59 SOLICITORS' JOURNAL, 126.

(p) Ordinance of 22nd December, 1914, R.G. Bl., 1914, p. 556.

(q) Ordinance of 4th March, 1915, *Deutscher Reichsanzeiger*, 10th March, 1915.

(r) R.G. Bl., 1915, p. 13.

(s) 59 SOLICITORS' JOURNAL, 126.

(t) Ordinance of 4th January, 1915, R.G. Bl., 1915, p. 2.

(u) R.G. Bl., 1915, p. 93.

(v) R.G. Bl., 1915, p. 93.

(w) R.G. Bl., 1915, p. 111.

(x) R.G. Bl., 1915, p. 112.

(y) R.G., Bl., 1915, p. 71.

(z) Ordinance of 25th February, 1915, R.G. Bl., 1915, p. 122.

(aa) 59 SOLICITORS' JOURNAL, 40, 55, 126.



extended to 31st January, 1915, has now been extended to 30th April, 1915. The moratorium on bills of exchange drawn in a foreign country which under the Ordinances of 10th August, 1914, was fixed at three months and by the Ordinance of 22nd October, 1914, extended for a further period of three months, has now been extended for another three months. On such extended bills interest at the rate of 6 per cent. is payable on the principal and interest due at the end of the first six months (g). Under these Ordinances it has been held that a bill drawn in a foreign country (f). How the question whether a bill was drawn in a foreign country is to be determined is a matter of fact (g). The plaintiff must at the time of bringing suit be domiciled within Germany (h); but where there are several plaintiffs, one of whom is resident abroad, the action is not suspended in respect of the domestic plaintiffs, unless the cause of action is connected with the foreign business (i). A partnership whose principal place of business is in Germany, and which has a German branch, may sue in respect of its transactions with the branch, and is not subject to the moratorium (i). So, too, a firm having its principal place of business in Germany may sue in respect of a debt due to a branch of the firm located in an enemy country (k).

The question whether section 1 of the Ordinance of 7th August, 1914, prohibits a cross-action by the domestic defendant commenced by the Second Civil Senate of the Reichsgericht, and affirmed by the First Civil Senate of the same court (l). The court does not deny execution on a judgment already given (m), but the prohibition against the institution of a new action by a foreign creditor, or the continuance of pending actions, is absolute, and the case cannot proceed even with the consent of the parties. The provisions are *juris publici* and cannot be waived by private agreement (n).

The Ordinance of 4th August, 1914, exempting persons in actual military or naval service from suits, applies only to natural persons (o). Where one partner is entitled to the exemption, his privilege extends to the other partners (p). So, too, where the managing director of a *Gesellschaft mit beschränkter Haftung*, is in active service, the exemption extends to the company (q). Where the cause of action is several, and suit is brought against several defendants, one of whom is entitled to privilege by reason of service, the suit is suspended only as to him and not as against his co-defendants (r).

The Ordinance of 7th August, 1914 (s), corresponding roughly to the Courts (Emergency Powers) Act, has been held not to apply in favour of a subject of an enemy state. The Court of Appeal of Dresden (t) based its decision to this effect on the ground that, as the evident purpose of the Ordinance was to mitigate the economic loss to German subjects incurred by the war, it could not have been the purpose of the Legislature to extend its benefit to the subjects of states that contributed towards the bringing about of these losses.

An Ordinance of 14th January, 1915 (u), provides for the appointment of curators *ad litem* for defendants absent on military service.

The moratorium in respect of bills of exchange and cheques availing in Alsace-Lorraine, East Prussia and West Prussia

Ordinance of 21st January, 1915, R.G. Bl., 1915, p. 31.

Ordinance of 18th January, 1915, R.G. Bl., 1915, p. 23.

Munich, 11th January, 1915.

(f) The place mentioned in the bill as the place of drawing determines. *Landgericht Berlin*, 24th October, 1914. *Contra Landgericht Karlsruhe*, 10th September, 1914, holding that the actual place determines.

(g) Prussian Court of Appeal, 15th February, 1915.

(h) Prussian Court of Appeals, 23rd October, 1914.

(i) Munich, 26th November, 1914.

(j) Hamburg, 12th February, 1915.

(k) These cases may possibly be reconciled on the facts. Where there is no intimate connection between the action and the cross-action, and the same can be separated, the action of the foreign plaintiff is suspended. *Dresden*, 25th November, 1915, and 29th January, 1916.

(l) Prussian Court of Appeal, 19th November, 1914; *Hamburg*, 23rd September, 1914.

(m) Noeldeke, in 20 *Deutsche Juristen Zeitung*, 97.

(n) Imperial Supreme Court, 22nd September, 1914.

(o) Court of Appeals, Darmstadt, 7th January, 1915.

(p) Prussian Court of Appeals, 19th October, 1914; *Hamburg*, 10th November, 1914.

(q) Court of Appeals, Colmar, 16th November, 1914.

(r) Court of Appeals, Hamburg, 5th October, 1914.

(s) Court of Appeals, Hamburg, 2nd November, 1914.

(t) 50 *SOLICITORS' JOURNAL*, 40.

(u) 22nd October, 1914. So also *Hamburg*, 24th November, 1914.

(v) Ordinance of 14th January, 1915, R.G. Bl., 1915, p. 17.



which under the Ordinance of 17th December, 1914 (w), was extended to 1st February, 1915, was extended to 31st March, 1915 (x), and now to 31st May, 1915 (y).

Owing to the legal inability to enforce payment of lease moneys and rents, owners of real property whose financial position was already a serious one prior to the war, have been specially affected by the moratorium existing in many cases in favour of their lessees, and to meet this particular case, an Ordinance of 22nd December, 1914 (z), provides that an extension of six months may be granted by the court under the Ordinance of 1st August, 1914 (a), in respect of the payment of the principal of a mortgage debt, or of a judgment placed thereon.

*Limitation.*—The period of limitation provided for in Articles 196, 197, of the Civil Code has been extended until 31st December, 1915 (b).

*Prize Law.*—Aluminium and nickel have been added to the list of conditional contraband (c).

It has already been pointed out that the Declaration of 4th February, 1915, is a military and not a legal measure. The most important decision thus far rendered by the German prize courts is that of 29th January, 1915, pronounced by the prize court in Hamburg in the case of *The Glitra*. It was held in this case that the owners of neutral cargo on board an enemy vessel destroyed by the captor are not entitled to compensation. This decision is contrary to the views expressed by the leading authorities on German prize law (d). The case has been appealed to the Court of Appeals in Prize Cases.





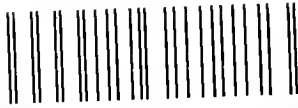
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